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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,839	08/22/2003	Mark L. Witten	12241-022-999	2057
20583	7590	03/24/2008		
JONES DAY 222 EAST 41ST ST NEW YORK, NY 10017			EXAMINER HEARD, THOMAS SWEENEY	
			ART UNIT	PAPER NUMBER
			1654	
			MAIL DATE	DELIVERY MODE
			03/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10645839	8/22/03	WITTEN ET AL.	12241-022-999

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EXAMINER

THOMAS S. HEARD

ART UNIT	PAPER
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1654	20080319
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Commissioner for Patents

The reply filed on 2/8/2008 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicants have not elected properly. Applicants have stated in their response to the election of species retirement with the following: In response, hereby Applicants elect the species of peptide, i.e., the species of substance P or substance P analog, that is [Sar9, Met (O2)11]-substance P. Applicants further elect the route of administration that is inhalation; the amount of substance P that is 5 gM, and the damage to be corrected that is decreased dynamic lung compliance; e.g., a method for increasing dynamic lung compliance.. Applicants further elect the patent population that is subjects exposed to main stream cigarette smoke.

The response is defect regarding the peptide. The term "peptide" is generic, the phrase "i.e.," does not specify but places the election as a generality, "substance P or substance P analog" is also a genus. Sar9, Met(O2)11-substance P, however, would be an election of specie if elected alone.

See 37 CFR 1.111. Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

/Cecilia Tsang/
Supervisory Patent Examiner, Art Unit 1654